

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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White Plains, New York 10605

By Fax: 212-949-8864

By Certified Mail: RRR P-801-449-706

April 4, 1995

State Commission on Judicial Conduct
801 Second Avenue
New York, New York 10017

ATT: Gerald Stern, Administrator

Dear Mr. Stern:

This letter follows up our telephone conversation last week with Jean M. Savanyu, Esq., who could not have been more rude and offensive toward us.

By letter dated March 21, 1995, Ms. Savanyu, designated therein as "Senior Attorney", denied our March 20, 1995 letter request for information, failing to comply with 22 NYCRR §7001.8 which required her to advise us in her letter of our right to appeal.

Copies of our information request letter and Ms. Savanyu's denial are enclosed for your convenience.

As you can see, Ms. Savanyu's letter gives two, seemingly incompatible, reasons for denying us information as to the promulgation of 22 NYCRR §7000 et seq. Indeed, interpreting §45 of the Judiciary Law as barring the Commission from providing information about the rules under which it operates makes Ms. Savanyu's second reason for the denial, to wit., that the request would require "research" and "funds", nonsensical.

I draw your attention to Article VI, §22(c) of the New York State Constitution--which says nothing about confidentiality. In pertinent part, it states:

"The organization and procedure of the commission on judicial conduct shall be as provided by law. The commission on judicial conduct may establish its own rules and procedures not inconsistent with law."
(emphasis added)

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However when I attempted to point out to Ms. Savanyu that the rules promulgated by the Commission are inconsistent with the Judiciary Law, she hung up the phone on me.

Specifically, I draw your attention to 22 NYCRR §7000.3, which permits the Commission to dismiss complaints, without investigation and without any determination by the Commission that such complaints are frivolous. By contrast, Judiciary Law §44.1 mandates investigation of all complaints and permits summary dismissals only after the Commission "determines that the complaint on its face lacks merit".

If your position--like Ms. Savanyu's--is that information relating to the promulgation of 22 NYCRR §7000 et seq. is confidential under Judiciary Law §45, we believe the public is entitled to some explanation from you, as Administrator of the Commission since its inception, with, presumably, first-hand knowledge of 22 NYCRR §7000 et seq.--as to how you reconcile the apparent discrepancy between §7000.3 and Judiciary Law §44.1.

It would appear to us that such discrepancy renders the Commission's rules "not consistent with law", with the result that the Commission's actions under §7000.3 have been without and in excess of jurisdiction where it has summarily dismissed complaints, without any finding that they were frivolous on their face.

As to our second request in our March 20, 1995 letter, 22 NYCRR §7001.3(c)(2) requires the "records access officer"--which we assume to be Ms. Savanyu--to "assist the requester in identifying requested records, if necessary". Yet, as reflected by Ms. Savanyu's letter, she does not identify if there are existing records in the Commission's files from which we might cull the information we are seeking--even though, pursuant to §7001.3(c)(1), the job of "records access officer" requires her, or whoever else fills that position, to "insure that personnel...maintain an up-to-date subject list." Does the Commission not maintain subject lists of litigations to which it is or has been a party--and to which 22 NYCRR §7001 et seq. and FOIL would entitle us?

Your prompt response would be greatly appreciated. As perhaps you know, our previous communication with you--our January 22, 1993 letter request for a telephone conference with you or the

Commission's Clerk, Albert Lawrence--has been wholly ignored. A copy of that letter is enclosed to facilitate your response thereto, as well.

Yours for a quality judiciary,

Elena Ruth Sassower

ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosures:

- (a) 3/20/95 request ltr
- (b) 3/21/95 response
- (c) 1/22/93 ltr

cc: Jack Newfield, New York Post
Eric Hanan, Inside Edition

PS Form 3800, June 1985

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Gerald Stern, Admin's-Trade
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801 Second Avenue
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